

## **An Update on Austin's Homelessness Challenge**

What everyone should know about City Council actions to keep Austinites safe and housed.

### **Homelessness and Camping, Sit/Lie, and Solicitation**

Items #184 and #185, before Council this week, deal with people experiencing homelessness and how our city wants to address camping, sitting, lying and soliciting. Importantly, it appears Council will maintain all law enforcement tools that deal with threats to public safety and public health hazards. Council will consider, however, trying to find new and better ways to deal with what APD determines to be non-threatening behavior. The real issue now before our community is really limited to whether we should continue to criminalize and treat non-threatening behavior the same way we deal with actual threats to public safety and health, or whether we need to find and implement better and more effective ways.

It is important to differentiate between the three distinct kinds of challenges that homelessness presents to others, even while we try to help those who need our support.

- **Public Safety threats** include things like aggressive panhandling, aggressive approaching, touching, threatening, intimidating, blocking, impeding, and trespassing on someone's private property.
- **Public Health hazards** include things like exposure to unsanitary conditions, drug paraphernalia and human waste.
- **Unhoused Living challenges** arise when we are exposed to and directly presented with disruptive mental health or physical conditions that do not constitute public safety threats or public health hazards but nonetheless are difficult, annoying or emotional for many to handle. For example, this could be a person, unkept, unshaven, poorly dressed and who is sitting in front of a store, loudly dealing with personal demons swirling around them that others cannot see, or the mother and her children who are sleeping in the car parked on a neighborhood street.

Council Agenda Item #185 ( [Agenda Item #185, as posted](#) ) incorporates many (but not all) of the DAA and Crime Commission suggestions as well as those of the criminal justice advocates. It maintains all the tools (ordinances and laws) APD currently has to arrest or ticket anyone who solicits, camps, sits or lies in a public area and who presents a threat to public safety or a public health hazard. It addresses three city code provisions:

City Code, Section 9-4-11, "Camping in Public Area Prohibited," which is not repealed, but is changed (see below).

City Code, Section 9-4-14, "Sitting or Lying Down...in the Downtown...", which is not repealed, but is changed (see below).

City Code, Section 9-4-13, "Solicitation Prohibited," which is broadened to address and is renamed "Aggressive Confrontation Prohibited," and is also changed (see below).

The proposed changes to these city code provisions importantly maintain all pre-existing tools for APD to act when they are confronted with a public safety threat or a public health hazard. This includes situations where the use of a public area is impeded by making it unreasonably inconvenient or hazardous.

Further, the proposed changes maintain all the tools (ordinances and laws) APD currently has to arrest or ticket anyone who aggressively confronts someone else while soliciting. (Actually, the proposed change extends the ordinance to all aggressive confrontations, whether soliciting or not.) This includes someone intending to cause someone else to fear personal harm or damage to their property by: making physical contact; following someone in a manner that creates that fear or which intimidates someone into engaging in acts they wouldn't otherwise perform; continuing to confront someone within five feet after having been asked to stop; blocking passage or requiring evasive action of a person or a vehicle; or breaching the peace by using obscene or abusive language.

The most significant change introduced by Item #185's changes to the three city code provisions, listed above, is removing from APD the ability to arrest or ticket someone who, in APD's opinion and judgment, is neither threatening public safety nor presenting a public health hazard. This could be, for example, the person mentioned above who is sitting outside the store dealing with swirling demons, or the family sleeping in their car on a public street.

While Item #185's proposed changes in city code maintain APD's ability to deal with threats to public safety and public health hazards, they would make it no longer a criminal violation to sit, lie, camp, or solicit in a manner that is not posing such threats or hazards.

Here is the real question: "Does our community want APD to be able to arrest or ticket a homeless person who, in APD's opinion, is posing neither a public safety threat nor a public health hazard? Clearly, we want to help that person and move them to a safer situation where they can get assistance and support. But, do we want to make that kind of conduct "criminal" under our local laws?

The concern about making that conduct criminal where APD believes there is neither a public safety risk nor public health threat is that it can lead to an arrest record or arrest warrant that makes it harder for a person to get housing or a job and to get back on their feet.

On the other hand, some business owners and people visiting downtown appreciate being able to call APD to move away someone experiencing homelessness, regardless of whether they are presenting a legal harm or threat. The proposed ordinance, Item #185, will remove this tool. Our APD reports that, most all the time, people approached by our officers voluntarily move when asked to do so. APD's concern is that this voluntary compliance will not continue if the threat of arrest is taken away.

Some question the efficacy of a tool that moves people away because they end up appearing somewhere else. The tool does not address the underlying problem of people not having a home or a better place to stay. And, by criminalizing conduct that doesn't present a hazard or a threat, people experiencing homelessness can end up with an arrest record or an arrest warrant further complicating their lives and making it harder for them to get to a better place.

What is the best answer for what how we want to address folks that are camping, sitting, lying or soliciting and not presenting a threat or a harm? This is the priority challenge and where the Council and the city need to focus our attention.

On Thursday, when the Council is considering the changes to the three ordinance, discussed above, the Council will also consider a Resolution (Item #184, [Agenda Item #184, as posted](#)), directing the City Manager to come back to Council in August with proposed steps that can be taken quickly to respond to these non-criminal situations so as to help people experiencing homelessness get to a better place where they can better receive the assistance and support they need. The Manager will be asked to:

- a. Propose reasonable time and place opportunities and limitations on camping, sitting and lying. This could identify locations and/or times where camping, sitting and lying are allowed as well as identifying locations where it is prohibited.
- b. Provide options for non-criminal remedies or tools that could be made available to APD to enforce any such limitations on camping, sitting and lying. Maybe there are options such as something like the sobriety center or the diversion offered by the Downtown Community Court that could work here.
- c. Provide options for locations that specifically allow for temporary shelter, including camping, where people could also receive social service and wrap-around support.
- d. Provide options where people or families currently sleeping in their cars could more safely locate and receive social service and wrap-around support, perhaps places of worship or larger retail locations would volunteer such opportunities.

There is general agreement that we need to maintain all the tools currently in the books to address public safety threats and public health hazards. The proposed Council action is consistent with maintaining these protections.

There is also general agreement that we need to better help and support those experiencing homelessness and to find better places and locations where people needing our support should and should not be located in order both to best support those needing our help and to ensure our city's general quality of life.

If these measures pass, police will have every tool they need to deal with actual threats and hazards to health and safety issues to which homelessness can contribute. Additionally, the city will move to deal more effectively with the upsetting, but non-criminal challenges that unhoused living creates, both for those who experience it and those who must live and conduct business alongside it. These measures offer real solutions rather than ineffective attempts to criminalize human distress.

Importantly, note that the Council will also consider action this week to locate a new shelter which could provide an additional safe place where people experiencing homelessness can be referred for individual assessment and services to address their particular challenges on the way to more permanent housing. More such capacity will be required, but this is an important next step. This is in line with other recent Council action taking other steps to address the homelessness challenge such as re-scoping the ARCH downtown, moving \$8 million of federal funding toward supportive homelessness housing, expanding the convention center to create a \$4 million to \$10 million dedicated annual funding stream, among other programs.

The Council is trying to find the correct balance. Ours is a compassionate, innovative and forward-looking city and community of special people. We can figure this out.